

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

DLJ Mortgage Capital, Inc.

Plaintiff

vs.

**Christopher M. Thonet, Dieuwertje W.
Thonet;
Concorde Acceptance Corporation**

Defendants

**Christopher Thonet, as trustee of The CT
DT LLC Trust dated May 7, 2020 and
Dieuwertje W. Thonet, as trustee of The CT
DT LLC Trust, dated May 7, 2020;
Damarsicotta Montessori School**

Party-In-Interest

CIVIL ACTION NO: 2:21-cv-00209-JDL

**PLAINTIFF'S MOTION FOR DEFAULT
JUDGMENT AS TO CONCORDE
ACCEPTANCE CORPORATION AND
DAMARSICOTTA MONTESSORI
SCHOOL**

**RE:
16 Union Court, Boothbay Harbor, ME
04538
VACANT PROPERTY**

**Mortgage:
August 23, 2004
Book 3358, Page 174**

NOW COMES the Plaintiff, DLJ Mortgage Capital, Inc. (hereinafter "DLJ Mortgage"), pursuant to Fed.R.Civ. P.55(b), and hereby moves for Default Judgment, following service, as to Defendants/Parties-In-Interest, Concorde Acceptance Corporation and Damarsicotta Montessori School, since said Defendants/Parties-In-Interest have neither answered nor otherwise appeared in this matter. As grounds therefore, and as further detailed in the accompanying Memorandum in Support of Plaintiff's Motion for Default Judgment, Plaintiff states the following:

1. Plaintiff's Complaint was filed on July 29, 2021. Affidavit of Reneau J. Longoria in Support of Motion for Default Judgment, ¶ 2.

2. The Defendant, Concorde Acceptance Corporation, was served with the subject complaint on June 28, 2022, *Id.* ¶ 3.
3. The Party-In-Interest, Damarsicotta Montessori School, was served with the subject complaint on September 17, 2021, *Id.* ¶ 4.
4. Proof of Service for Defendant, Concorde Acceptance Corporation, was filed on July 5, 2022. *Id.* ¶ 5.
5. Proof of Service for Party-In-Interest, Damarsicotta Montessori School, was filed on October 27, 2021, *Id.* ¶ 6.
6. Pursuant to Fed. R. Civ. P. 12(a)(1)(A)(i), Defendant, Concorde Acceptance Corporation's response to the Complaint was due July 19, 2022, *Id.* ¶ 7.
7. Pursuant to Fed. R. Civ. P. 12(a)(1)(A)(i), Party-in-Interest, Damarsicotta Montessori School's response to the Complaint was due October 8, 2021, *Id.* ¶ 8.
8. The Defendants are not in the military, *Id.* ¶ 9.
9. On August 16, 2022, Plaintiff filed a Motion for Entry of Default as to Defendant, Concorde Acceptance Corporation, *Id.* ¶ 10.
10. On November 12, 2021, Plaintiff filed a Motion for Entry of Default as to Party-in-Interest, Damarsicotta Montessori School, *Id.* ¶ 11.
11. On August 16, 2022, this Court entered Default as to Defendant, Concorde Acceptance Corporation, *Id.* ¶ 12.
12. On November 15, 2021, this Court entered Default as to Party-In-Interest, Damarsicotta Montessori School, *Id.* ¶ 13.
13. Entry of default judgment against Defendants/Parties-In-Interest pursuant to Fed. R. Civ. P. 55(b) is proper because Defendants/Parties-In-Interest have failed to plead or otherwise defend.

MEMORANDUM IN SUPPORT OF MOTION FOR DEFAULT JUDGMENT

This is an action for Foreclosure and Sale where Plaintiff is moving for Entry of Default Judgment pursuant to Fed. R. Civ. P. 55(b), as to Defendants/Parties-In-Interest, Concorde Acceptance Corporation and Damarsicotta Montessori School, since said Defendants/Parties-In-Interest have neither answered nor otherwise appeared in this matter. The Defendants Christopher M. Thonet, Dieuwertje W. Thonet individually and as trustees of The CT DT LLC Trust have consented to a Judgment of Foreclosure and Sale on Count I and a Motion to Approve Consent Judgment will be filed upon receipt of the countersigned copies of the Consent Judgment. Christopher M. Thonet was previously defaulted as he failed to answer or appear, but notwithstanding his default, upon information and belief, following negotiations with Counsel for the answering Defendant Dieuwertje W. Thonet, both have agreed to Consent to Judgment of Foreclosure and Sale. In the interests of judicial economy, this Court should grant entry of default judgment as to the aforesaid Defendants/Parties-In-Interest and allow the parties 15 days to file a proposed Consent Judgment which will set forth the amount due, the order of priority and related matters.

As grounds therefore, Plaintiff states the following:

1. Entry of default and default judgment against Defendants/Parties-In-Interest, Concorde Acceptance Corporation and Damarsicotta Montessori School, pursuant to Fed. R. Civ. P. 55(b), is proper because said Defendants/Parties-In-Interest have failed to plead or otherwise defend.

Pursuant to Fed. R. Civ. P. 55(a), it is within the discretion of the trial court to enter default against a Defendant/Party-In-Interest who “has failed to plead or otherwise defend.” *See Schmir v. Prudential Ins. Co. of America*, 220 F.R.D. 4 (1st Cir. 2004) and *Dekom v. New York*, 2013 WL 3095010 (June 18, 2013). Furthermore, “if that failure is shown by an Affidavit, the Clerk must enter the party’s default.” *See Fed.R.Civ.P. 55(a)*. Plaintiff’s Complaint was filed on July 29, 2021; the Defendant, Concorde Acceptance Corporation, was served with the subject Complaint on June 28,

2022; the Party-In-Interest, Damarsicotta Montessori School, was served with the subject Complaint on September 17, 2021. As of this date, Defendants/Parties-In-Interest have neither answered nor otherwise appeared in this matter. *See Affidavit of* Reneau J. Longoria attached hereto. In response to Plaintiff's Motion for Entry of Default dated August 16, 2022, this Court entered default as to Defendant, Concorde Acceptance Corporation on August 16, 2022. In response to Plaintiff's Motion for Entry of Default dated November 12, 2021, this Court entered default as to Party-In-Interest, Damarsicotta Montessori School on November 15, 2021.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter default judgment as to Defendants/Parties-In-Interest, Concorde Acceptance Corporation and Damarsicotta Montessori School.

DATED: March 29, 2023

/s/Reneau J. Longoria, Esq.
Reneau J. Longoria, Esq. Bar No. 005746
Attorney for Plaintiff
Doonan, Graves & Longoria, LLC
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Beverly, MA 01915
(978) 921-2670
RJL@dgandl.com

CERTIFICATE OF SERVICE

I, Reneau J. Longoria, Esq. hereby certify that on March 29, 2023 I served a copy of the above document by electronic notification using the CM/ECF system and/or First Class Mail to the following:

/s/Reneau J. Longoria, Esq.
Reneau J. Longoria, Esq. Bar No. 005746
Attorney for Plaintiff
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175 Heath Road
Saco, ME 04072

Damarsicotta Montessori School
93 Center Street
Nobleboro, ME 04555

Concorde Acceptance Corporation
7929 Brookriver Drive, Suite 500
Dallas, TX 75247

Dieuwertje W. Thonet
c/o Thomas A. Cox, Esq.
P.O. Box 1083
Yarmouth, ME 04104

Christopher Thonet, as trustee of The CT DT LLC Trust, dated May 7, 2020
175 Heath Road
Saco, ME 04072